

PREPARED REMARKS OF SENATOR CHARLES E. GRASSLEY

HEARING BEFORE THE COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

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Good afternoon, Mr. Chairman and Members of the Committee. Thank you for holding this important hearing today. Listening carefully to what whistleblowers have to say and looking into their allegations is a key Constitutional duty for all members of Congress. The FBI is one of the most powerful and least transparent organizations in the Federal Government. Underneath all of the good things the FBI does, unfortunately there is a history of abuse, mismanagement, and retaliation so strong that it has become part of its organizational culture. Unfortunately, it is this culture that causes the FBI to confuse dissent with disloyalty. Only a brave few dare to speak out and break the FBI's code of silence to report problems. When they do speak out, they usually suffer retaliation.

Whistleblowers demonstrate tremendous courage in any organization, but speaking out as an FBI agent takes a special level of guts and determination. I have worked with FBI whistleblowers for many years including Dr. Frederic Whitehurst who came forward to discuss outrageous problems at the FBI Crime Lab and former Special Agent Coleen Rowley who came forward to discuss the bungled investigation into Zacharias Moussaoui.

Today you are going to hear testimony from two other FBI whistleblowers who have worked with my office for several years: former Special Agent Michael German and Supervisory Special Agent Bassem Youssef. I am here today to let you know why I have supported these courageous individuals, and I can tell you that these two men have taken more than their share of abuse. They stuck their necks out for the good of us all. They didn't take the easy way out by going along to get along, or looking the other way.

The whistleblower who I call the grandfather of whistleblowers—Ernie Fitzgerald—says that whistleblowers “commit truth.” Well, that's exactly what put a target on the backs of Michael German and Bassem Youssef inside the FBI. They had the courage to tell the unvarnished truth that some people at the FBI didn't want to hear, and they have paid the price for committing truth.

**Michael German**

Michael German was a 14-year veteran special agent who had risked his life by going undercover and successfully infiltrating neo-Nazi organizations for the FBI. He was asked to help with a Florida case where a neo-Nazi group and a foreign, Islamic terrorist group appeared to be talking about forging an alliance based on their shared anti-Semitic beliefs. He soon discovered that a portion of a meeting between the groups had been illegally recorded by mistake. Rather than simply follow the rules, document the error, and move forward as German suggested, one FBI supervisor told him to just “pretend it didn't happen.”

An investigation by the DOJ Inspector General found that the FBI retaliated against German for refusing to look the other way. The Inspector General even found that someone in the FBI falsified documents in that Florida case, actually using white-out to hide their mistakes. Yet, despite these findings, did the FBI take swift and decisive action to hold anyone accountable? Has it done anything to correct the wrongs inflicted on Michael German? Sadly the answer to both questions is “no.”

### **Bassem Youssef**

Bassem Youssef is the FBI’s highest-ranking Arab American agent. Before 9/11, he successfully worked counterterrorism cases and served as an effective liaison from the FBI to the Saudi Arabian government. His background as an Egyptian-born Coptic Christian and native Arabic speaker should have made him one of the FBI’s most valued and appreciated employees after the 9/11 attacks. Yet, despite his experience in counterterrorism and his cultural expertise, the FBI failed to assign him to positions where these assets would be best used.

When Youssef expressed concern about the FBI’s practice of putting other, less qualified agents into critical counterterrorism positions, he quickly became like most whistleblowers—about as welcome as a skunk at a Sunday afternoon picnic.

How did the FBI let Youssef know he wasn’t welcome? Well, senior officials denied him a transfer to a counterterrorism unit. They placed him in an administrative job, managing the FBI’s receipt of information from telephone companies. Youssef soon identified major problems with the way his new office had been operating before he got there.

The FBI had been sending something called “exigent letters” to get phone companies to provide phone records to the Bureau. The letters asked phone companies to give the FBI records immediately, claiming that there was an emergency and that a grand jury subpoena was being drafted and would be sent later. However, no grand jury subpoenas were actually drafted and, in many cases, there was no emergency to justify the request. The FBI was misusing the system.

Youssef says he recognized this and tried to work with others at the FBI to correct them, but received little or no cooperation. The FBI’s General Counsel’s Office and his superiors at the FBI were uninterested in the issues he raised. The FBI finally started trying to deal with the issues Youssef had raised only after Congress asked the Inspector General to investigate.

Yet, even after scrutiny from Congress and the Inspector General, FBI officials wasted time and energy on retaliating against Youssef rather than fixing the problems he brought to their attention. One FBI official said that during his testimony to the Inspector General he “threw [Bassem Youssef] under the bus.” Another FBI official asked a colleague who was preparing to testify to the Inspector General if he was “getting ready to throw Bassem Youssef off the roof?”

These comments confirm that the anti-whistleblower culture at the FBI is as strong as ever. Essentially, these FBI personnel stated openly that they intend to use the Inspector General review as a vehicle to retaliate against Youssef. In light of these comments, I am very concerned about the Inspector General’s ongoing investigation. I am also concerned because the inquiry is being conducted jointly with the FBI. Conducting an investigation jointly with the organization under review undermines the very independence that an Inspector General is supposed to provide.

When this controversy first began, the Inspector General wanted to let the FBI investigate itself and simply monitor the results. I thought that position was wrong-headed. Allegations as serious as these warrant an independent review, not an internal FBI probe that might look like a whitewash. So, I urged the Inspector General to make an independent determination. Now, his office is conducting a review, but instead of doing it independently, it is being done jointly with the FBI, the same organization whose conduct is in question. That bothers me a lot, and it should bother each of you too.

Given all these circumstances, Congress needs to take a careful look at the Inspector General's report on the use of exigent letters when it is finally released. We need to get access to the underlying documents and ask the tough questions necessary to ensure the reliability and integrity of this investigation. My colleagues and I have been seeking emails from the FBI on this case for over a year. We are still awaiting these emails, and the FBI doesn't seem too eager to turn them over. We would appreciate working with you and your staff to obtain these important documents.

Congress needs to follow-up and find out whether those in the FBI responsible for retaliating against whistleblowers like Michael German and Bassem Youssef are held accountable. Just giving lip service to protecting whistleblowers will not get the job done. The FBI's culture of retaliation will never change until those who endorse or condone it face discipline for their actions.

We all ought to be grateful for what whistleblowers like Michael German and Bassem Youssef do for our country. They face very difficult circumstances, sacrificing their family's finances, their employability, and the attempts by powerful interests to smear their good names and reputations.

For over two decades, I've learned from, appreciated and honored whistleblowers like these. Congress must have information from whistleblowers. Only whistleblowers can explain *why* something is wrong and help Congress locate the best evidence to prove it. Moreover, only whistleblowers can help us truly understand problems with the *culture* at government agencies.

At the FBI, where I've focused much of my oversight efforts over the years, agents who blow the whistle about problems or wrongdoing do not enjoy the same protections as other federal government employees. Congress has attempted to fix this problem with various versions of whistleblower reform bills. One bill, S.274 which I am a cosponsor of, unanimously passed the Senate in December, and would address a number of issues within the federal whistleblower laws that remain outstanding.

The witnesses you will hear from today, just as other whistleblowers before them, deserve the support of Congress for bringing to light problems with the Bureau. Thank you again for holding this important hearing. I'm sorry I cannot stay, but I have to leave now to fulfill other commitments back in the Senate. I look forward to reviewing the remainder of the proceedings once the transcript is available. Mr. Chairman, I hope that we and our staff can work together to follow-up with the FBI in more detail on the important issues and questions that will be raised today.